

CITY OF SOLANA BEACH
SOLANA BEACH CITY COUNCIL, REDEVELOPMENT AGENCY, AND PUBLIC FINANCING
AUTHORITY

JOINT **SPECIAL** MEETING

MINUTES

5:00 P.M.

Wednesday, June 29, 2011

CITY COUNCIL CHAMBERS
635 S. HIGHWAY 101,
SOLANA BEACH, CALIFORNIA

The City Council acts as the City of Solana Beach Redevelopment Agency and the Public Financing Authority.

CALL TO ORDER AND ROLL CALL:

Present: Heebner, Kellejian, Roberts, Nichols, and Campbell.

Absent: None.

Also Present: David Ott, City Manager
Johanna Canlas, City Attorney
Angela Ivey, City Clerk
Dennis Coleman, Finance Director
Wende Protzman, Dir. Admin. Serv/Deputy City Mgr
Tina Christiansen, Community Dev. Dir.
Mo Sammak, City Engineer/Public Works Dir.

Mayor Heebner called the meeting to order at 5:15 p.m.

CLOSED SESSION REPORT: (when applicable)

FLAG SALUTE:

Mayor Heebner led the flag salute.

APPROVAL OF AGENDA:

MOTION: Moved by Campbell and seconded by Kellejian. **Motion carried**

unanimously.

ORAL COMMUNICATIONS:

This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip (located on the back table) to the City Clerk. Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

COMMUNITY ANNOUNCEMENTS:

Council reported community happenings.

COMMENTARY:

NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)

NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)

B. PUBLIC HEARINGS: (B.1.)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designees for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

B.1. Public Hearing - Local Coastal Program Land Use Plan. (File 0610-12)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the public hearing; Report Council disclosures; Receive public testimony; Close the public hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15265 of the State CEQA Guidelines, the LCP process is exempt because the criteria under the Coastal Act are the functional equivalent of the EIR process; and
3. Adopt Resolution 2011-093 providing direction to the City Manager to transmit the April 14, 2011 Draft LCP/LUP to the CCC for formal review and consideration for a CCC public hearing prior to November 10, 2011 and continue to coordinate with CCC staff to finalize the LCP/LUP for CCC consideration and proposed approval.

Mayor Heebner gave an overview of the night's agenda, beginning with a Staff presentation and Council questions, opening of the public hearing, then disclosures, and then hear from the speakers. Once the speakers are finished, she will turn first to the City Attorney and City Manager for response.

David Ott, City Manager, introduced the item. City has been in the Local Coastal Plan (LCP) process for many years. The City of Solana Beach (City) needs an LCP according to California Coastal Act (CCA). The City is one of the six cities in California without an approved LCP/LUP.

Leslea Meyerhoff, consultant, presented a powerpoint (on file) reviewing the history of the process, how the regulations applied to the City, that a citizen committee was involved in the process, the City received the recommendation from the California Coastal Commission (CCC) to create a certifiable Land Use Plan (LUP), that the City had submitted 5 LUPs to the CCC to date, that the CCC determined the draft complete in August 2010, and that the CCC had until November 2011 to act on the City's LUP. She continued stating that there had been policy changes in the new LUP (2011) from the old LUP (2009) which included that seawalls would now be valued for 20 years, that they would not need to be removed but would have to be re-permitted, and the public comment that had been received from the public within the official period as well as afterwards. She said that a summary of the comments received focused on the clarification of the description of the City's shoreline, maintenance for public beach access along the shoreline, mitigation to adverse impacts on sand supply and recreation, support and opposition to a 20 year permit for bluff retention devices, support and objection to the 75 year removal policy, impact fees, and clarification for homes destroyed by disaster.

Mayor Heebner opened the public hearing.

Council reported disclosures.

Tom Ryan said he lived on S. Sierra and was concerned about Policy 2.60 regarding the beach stairs, that the beach stairs had been there since 1972 and were lost in winter storms and required ongoing repair, that there needed to be a reassessment of the issue and better ways to repair, and that the policy would require a permit to repair it as it was without improving it and preventing loss.

Jon Corn (time donated for group by Carol Childs, Ron Lucker) said that he spoke on behalf of BBC (Beach Bluff Conservancy) and COOSSA (Condominium Organization of South Sierra Ave) and that the primary goal was to deal with the divisive issues plaguing the City when the citizens group set out to help the City draft the LUP. He said that it was good but needed more refinement. He said that they had built a seawall in 1989 and had issues, that property owners needed certainty, and that he asked that it be sent back for more work including the most crucial issue which was the 20 year sunset provision because it was brutal and unfair and casted uncertainty on bluff top owners, that it was unenforceable and unfair, and that a seawall policy should be put in place and then focus could on the sand on the beach.

Adam Enright presented a powerpoint (on file) reviewing seawall problems and potential solutions including buy back program of land to protect it from development.

Todd Cardiff (Robbie Oshash donated time) stated that he was not speaking on behalf of Surfrider today, that Policy 3.27 created a right to obtain a variance on what was an un-allowable development, that the definition of extensive remodel was limited to bluff top homes and only dealt with 50% increase of the FAR which encouraged new development in a geologically hazardous zone, that it would allow an entire remodel of a home as long as it was outside the geological setback zone, that it encouraged the same policies that created the issue in the first place, that it encouraged property owners to rebuild homes in an area that would continue to erode in the foreseeable future. He continued stating that the LCP should recognize that the City owned the bluff property and could deny seawalls and could lease the land, that Policy 4.54 stated that a fee be paid if assessed by the California Coastal Commission (CCC) and would not assess it otherwise, and that this would require every seawall to be appealed to the CCC in order to obtain the fee.

Wayne Brechtel said that he represented the Sloans, that comments were noted with a response stating that they were non-substantive or that CCC would not agree, that now it would be imminent failure within 12 mos. in order to apply for a permit and then would take longer to address the problem, and asked Council to

review some practical requests.

Julia Chunn, campaign coordinate for Surfrider, (time donated by Adam Hear and Lyle Beller) presented a powerpoint (on file) stating that she lived in Cardiff and used the beach regularly, that they had collected 184 online signatures for a petition points, to make a plan, to retain ownership of land, complete a finance study, retain the land lease and recreation fees, and acknowledge the negative impacts of seawalls. She said that seawalls were retaining sand right now that could be beaches, and that their goal was to find reasonably common ground and create a LCP to protect and guide the coastal resource, and that bluff retention devices did not make the beach safer.

Doug Hardwood said that he was a real estate broker and had watched the bluffs over many years, that the 20 year limitation would lead to un-amortized cost of about 70-80% of the seawall, and that it would lead to a 10-20% drop in value in addition to the current drop which would prevent improvements and lead to blight.

David Winkler (time donated by Peter House) stated that he was a member of the citizen committee for over 5 years, that the language related to the determination of the mitigation fees had been reduced and was a concern, that the Coastal Commission stated that they supported the City's attempt to develop an evidence based approach to the land use recreation fee, that he strongly encouraged that the language regarding determining the mitigation fees be restored, that with the past language that the permit would be renewed if the conditions were still the same, that without the lack of certainty that homeowners would be operating in the unknown, that fees were significant in permitting and construction of seawalls, that seawalls made the beach safer, and that he asked that the 20/81 language be restored.

Jim Jaffe presented powerpoint (on file) reviewing the break down in the citizens committee in 2009 because it stopped functioning as citizens and participants became paid participants, that the purpose was to preserve access to the beach, that proper description of geologic and marine conditions should inadequately represent the prevailing and historic conditions, to incorporate policies to acquire bluff top property, to acknowledge the adverse impacts of seawalls, that it should protect city lands, to bring the LCP/LUP in compliance with the Coastal Act, to finish the study, how the Coastal Act balances conflicts which sides with the most protective action, that the City was not allowed to prevent access to the sea, that seawalls did not have to be allowed, to maintain the ability to remove seawalls when possible, and how the cliff retreat process creates sand.

Marco Gonzales said that he spoke on on behalf of Coastal Environmental Righths Foundation, that he had served on a past citizen committee regarding traffic and bluff top properties, that it was clear that property owners had a vested

interest in their land investment, that the argument had begun to change with the falling blocks and chunks falling, that everyone agreed that the beaches needed to be protected, that there was not a credible opposition that sea levels will rise, there were certain policies relegated to Council's discretion, and that it should be submitted to the Coastal Commission since it was the best plan that had been presented in decade.

Steve Eceti said that it was frustrating to hear the "us v. them" mentality, that they supported sand restoration and reefs, that all testimony was about seawalls and nothing was about the need for sand, that there was sand on its way from SANDAG and Army Corps as well potentially from geological abatement district.

Ira Opper said that seawalls now had a negative impact on the quality of the surf due to refraction off the seawalls, that there may be other solutions to erosion and seawalls in the future, to consider mitigation fees for impact of the recreational value which had diminished due to seawalls, that there should also be some mitigation fees for the visual impact lost, and that the walls needed to come down in 20 years.

MOTION: Moved by Roberts and seconded by Campbell to close the public hearing. **Motion carried unanimously.**

Mayor Heebner recessed the meeting at 7:35 p.m. for a break and reconvened at 6:50 p.m.

Council and Staff discussion ensued regarding that beach stair access could be maintained but not replaced, that rebuild had to be in the same footprint but to a higher standard, that a total rebuild of a stair case instead of just replacing destroyed area would have to be a very solid argument, that the intention was not to keep it in perpetuity since it was for private use rather than public use, that Policy 2.60 stated that no new private beach stairways could be constructed and that existing maintenance of the current condition could be permitted with a Coastal Development Permit, and that private and public use were permitted differently. Discussion continued regarding non-confirming use of a 40 ft. set back line, that it was more restrictive than the rest of the City, that maintenance was allowed to prevent leaking and termites, and that they were not allowed to increase the home. Discussion continued regarding variances were never by right and were discretionary by definition, that this LCP/LUP was in compliance with the Coastal Act and any past settlement, that the Coastal Commission did not deny the plan in the past because of the lack of a financial plan, and that the Coastal Commission cannot deny a City due to the lack of a financial plan which would come at a later date.

Council and Staff discussion continued regarding that permits were issued for 2 years and that extensions could be considered, that the 20 year time period for a

permit was based on the concern about what would happen in 20 years so that automatic renewals would not be allowed and that the need would have to be argued based on the current conditions, p language, 20 yr permit, that a property owner could return to the City and Coastal and present any ongoing state of emergency with proper analysis, that the 2081 sunset clause was very clear that they would be removed, that since permits were discretionary that the City could impose conditions, that the Coastal Commission had been imposing conditions since 2006, and that there was a rational relationship between the fees and the use of the City's land, and that the exchange for the use could be fees and/or a time frame to review whether the use was still necessary.

Council and Staff discussion continued regarding that if an emergency still existed that a property had the right to reapply, that if there was no emergency that the wall was no longer needed, that the title of the land was not changing, that the deposit was for the use of that land, that the LUP at this time did not guarantee an automatic approval of a seawall, and that the need would be based on demonstrative evidence.

Council and Staff discussed that the fact that it would still be discretionary, that a seawall would have to be proposed and approved based on the conditions at that time, that the issue of certainty did not matter since it was still discretionary, that the existing fee structure being proposed would be a sand mitigation fee, land use and recreation fee of \$1,00 per linear feet for the proposed device until the fee is officially established, that the state could not charge a land use recreation fee on City property, that even though it was a statewide issue that each area is different, that a methodology would be developed in order to establish the fees, that the City did a study to work through potential fee methods, that the City had held off on setting the fee until agreement could be reached, and that the City would continue to collect the fee until the state worked with the City to develop the final fee and then the City could adopt the fee or not. Discussion continued regarding the contouring of natural bluffs in Solana Beach such as the Torrey Pines area, that the Council would not give the state authority but instead combine resources with the option to pull back and create the City's own fee, that the City could not go back and impose conditions on past applications and could only approve permits based on existing regulations, and that there was common misunderstanding that the fee would go to the state and that it would go to the City.

Council and Staff discussion ensued regarding that fact that the passing of a LCP put the City in the shoes of the current job of the Coastal Commission job, that the MEIR (Master Environmental Impact Review) was exempt from CEQA for this process, that the Coastal Commission review and approval took place of an MEIR, that the comment regarding the financial plan affecting the approval was incorrect and could not be the basis for denial, consider adding a sentence

acknowledging the fact that seawalls had adverse impacts, that this was the entire reason for mitigation, and that the Coastal Act defined mitigation as the need to address impacts.

Council discussion ensued regarding addressing comments, the need to clearly state that seawalls create adverse impacts, that current statutes provided definitions for which mitigation needed to be provided, that there were 12-24 bluff failures a year, that it was not clear if seawalls saved people's lives, whether the statement needed to be repeated, and that it might be similar to having to mention specific safety issues.

Mayor Heebner and Councilmember Nichols felt that the mention of seawalls creating adverse impacts and that rest of Council did not fully agree.

Council discussion continued regarding mentioning inside the document that land ownership was maintained by the City, to consider inclusion of aesthetics in the future, and whether an incentive could be offered to remove wall earlier.

Councilmember Roberts stated that his family was a member of Surfrider but that he could make a fair and impartial decision, that he went through the major letters submitted to see if things could be changed without unraveling what had been achieved, and that he was interested in moving forward.

Councilmember Campbell stated that it was unfortunate that the citizens group fell apart, that the City had taken the best shot based on conversations with Coastal and public comments, that this was still the best approach, that there would still be a few issues to handle with Coastal, and that the City Manager would work directly with them.

Councilmember Nichols said that it was a tough issue, that he had friends who owned property on the bluffs and friends who opposed seawalls, that he had heard both sides of the issue, that while he supported doing the most protective thing for the environment he had never denied a seawall, that he thought the issue should be balanced, that this proposed plan was trying to compromise a balance, that he felt strongly that this proposal was more protective of the environment than the 2008 version, that he supported this plan, that he looked forward to talking about sand and reef projects, and that support for those projects ultimately benefited everyone.

Councilmember Roberts stated that the subcommittee spent a lot of time on the issue, that this LCP affected the entire City, and that he supported forwarding it to the Coastal Commission.

Mayor Heebner said that everything had already been said that she agreed with and thanked Staff and the Ad Hoc for all the work.

Deputy Mayor Kellejian said that the City had dealt with this issue since he was elected in 1992, that he had served on the SANDAG Shoreline Committee, and he thanked Surfrider for its support for sand issues in the past and hoped that they would continue their efforts in the future.

MOTION: Moved by Campbell and seconded by Roberts to approve Resolution 2011-093 providing direction to the City Manager to transmit the April 14, 2011 Draft LCP/LUP to the CCC for formal review and consideration for a CCC public hearing prior to November 10, 2011 and continue to coordinate with CCC staff to finalize the LCP/LUP for CCC consideration and proposed approval. **Motion carried unanimously.**

C. STAFF REPORTS: (C.1.)
Submit speaker slips to the City Clerk

C.1. Consideration of a Fiscal Sustainability Ad Hoc Committee. (File 0410-48)

Recommendation: That the City Council

1. Discuss whether a Fiscal Sustainability Ad Hoc Committee should be created.
2. If the need for an Ad Hoc Committee is determined, adopt Resolution 2011-110 establishing the Fiscal Sustainability Ad Hoc Committee until June 28, 2012 and appoint two Councilmembers.

David Ott, City Manager, introduced the item.

MOTION: Moved by Heebner and seconded by Nichols and appointed Campbell and Roberts. **Motion carried unanimously.**

COUNCIL COMMITTEE REPORTS:

If applicable

ADJOURN:

Mayor Heebner adjourned the meeting at 8:05 p.m.


Angela Ivey, City Clerk

Approved: January 25, 2012